

DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM-D-185

16 April 1980

STATINTL MEMORANDUM FOR: [REDACTED]
Assistant General Counsel

STATINTL FROM: [REDACTED]
Executive Secretary

SUBJECT: APEX Nondisclosure Agreement

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1. As the Security Committee representative to the APEX Steering Group I reject the draft of the Nondisclosure of Protected Information shown and discussed in [REDACTED] office on 15 April 1980 for the following reasons:

a. It fails to satisfy the need for a single APEX Nondisclosure Agreement by its inclusion of extraneous material.

b. The proposal to permit optional use of non-APEX related material by sponsoring departments eliminates the possibility of this being a common, standard agreement, and perpetuates concerns that agencies can foster on recipients of their material unacceptable security constraints as a condition of access.

c. It is too long and repetitious.

d. It contains security irrelevancies, e.g., notification about calls by judicial authorities, about going to the Intelligence Oversight Board, about the Government instituting civil proceedings and about each provision being severable.

e. Is too broad, e.g., "do anything or behave in a way which shows that I may not be willing or able to protect such information in the future..."

f. Is unacceptable in its provision for prior review of anything written forever.

2. As the Executive Secretary of the Security Committee, I am concerned that fault for not developing a commonly acceptable nondisclosure agreement for SCI has been levied against the Committee. I believe this is in error. Form 4066 (Revised) has been adopted and is used widely throughout both government and industry as a common nondisclosure agreement for SCI. That NSA has not elected to use this nondisclosure agreement is not within the purview of the Security Committee to address. Attempts by your office to resolve this issue are appreciated since it appears that APEX will indeed require a common SCI Nondisclosure Agreement.

3. On 14 April 1980 I received a call from the Department of Justice member of the Security Committee. He advised that Mr. Gerry Schrader, DoJ attorney, had contacted him saying that the 2 April 1980 proposed Nondisclosure Agreement did not appear to be enforceable from a DoJ point of view. It was suggested that [redacted] meet with Ken Bass and have him contact [redacted] to lay out the Justice problem since it is a legal and not a security issue.

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4. I will propose to the members of the Security Committee that they address the security sufficiency of the nondisclosure agreement for SCI now in use, Form 4066. I will request them to speak to the issue as the senior security officers of their departments and encourage them to set aside any issue outside of their immediate area of substantive responsibility in a vote to recommend to the Chairman of the APEX Steering Committee adoption of Form 4066 (Revised) as the APEX Nondisclosure Agreement.

[redacted]
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STATINTL cc: [redacted]

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Orig - Addressee

STATINTL 1 - [redacted]
1 - SECOM Chrono
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